

Appln No. 09/886,930  
Amdt date March 30, 2004  
Reply to Office action of December 30, 2003

REMARKS/ARGUMENTS

Applicants thank the Examiner for his consideration of the present application. Claims 128-160 are pending.

The Examiner has rejected claims 129, 132, 142, 147, 148, 149, 150 and 153 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter of the which applicant regards as the invention. In particular, the examiner has noted instances of insufficient antecedent basis for certain limitations contained in the claims. Applicants have amended claims 128, 132, 142, 147 and 153 to provide proper antecedent basis for the cited limitations in the rejected claims. Applicants note that there appears to be proper antecedent basis appearing in the last subparagraph of claim 142 for the limitation "the user" in claims 147-150. Applicants further note that the claim amendments to claims 128, 132, 142 and 147 are for the purpose of correcting what appear to be minor informalities regarding appropriate matching of claim terms for antecedent basis purposes, and are not narrowing amendments. Applicants regard the change to claim 153 from "the same packet" to "a single packet" to involve the substitution of equivalent limitations. Therefore the change does not and is not meant to constitute a narrowing amendment.

The Examiner has provisionally rejected claims 128-160 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent 6,339,830 in view of other cited references, including Alexander, U.S. Patent 6,212,191. In response, Applicants are filing herewith a suitable terminal disclaimer as a simple expedient to obviate the double patenting rejection, and respectfully request that the rejection be withdrawn. Applicants do not acquiesce in the propriety of the rejection. Applicants note that the filing of a terminal disclaimer raises neither presumption nor estoppel

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on the merits of the rejection. See Quad Environmental Tech. v. Union Sanitary Dist., 946 F.2d 870, 874 (Fed.Cir. 1991).

Based on the foregoing, Applicants submit that the claims 128-160 are in condition for allowance and respectfully request early issuance of a Notice of Allowance.

Respectfully submitted,

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Encl: Terminal Disclaimer

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